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Law

**DESIGNATION AND CERTIFICATION OF
JUDGE ADVOCATES**

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This instruction implements AFPD 51-1, The Judge Advocate General's Department. It describes the process for designating officers as judge advocates and certifying judge advocates as competent to perform trial and defense counsel duties under Title 10, United States Code. Violations of the specific requirements of this regulation by military personnel may result in prosecution under the Uniform Code of Military Justice (UCMJ). This instruction applies to active duty, Air Force Reserve and Air National Guard judge advocates.

SUMMARY OF REVISIONS

The preamble has been changed to make this instruction applicable to the US Air Force Reserve and Air National Guard. Changes from previous edition are indicated by | .

1. Designating Judge Advocates. Only The Judge Advocate General (TJAG) can designate an officer as a judge advocate.

1.1. To be designated as a judge advocate by TJAG under Title 10, United States Code, Section 8067(g), the officer must satisfy the following requirements:

- Be a graduate of a law school which was accredited by the American Bar Association at the time of the officer's graduation.
- Be in good standing and admitted to practice before a Federal court or the highest court of a state, territory, or the District of Columbia.

1.2. TJAG can designate Air Reserve Force (ARF) officers not on extended active duty as judge advocates, and assign them to The Judge Advocate General's Department Reserve (TJAGDR) under AFI 51-802, *Assignment to Judge Advocate General's Department Reserve*. ARF includes the Air Force Reserve and the Air National Guard.

1.3. Only designated judge advocates assigned to The Judge Advocate General's Department (TJAGD) or TJAGDR may wear the judge advocate insignia. Retired judge advocates may wear insignia whenever they are authorized to wear the uniform.

2. Maintaining Designation

2.1. Once designated a judge advocate, the officer must maintain such current compliance with the licensing requirements, if any, of a Federal court or the highest court of a state, territory, or the District of Columbia which qualify the officer to engage in the active practice of law.

2.2. A judge advocate must notify HQ USAF/JAX immediately of the commencement or pendency of any action or proceeding that might lead to disciplinary action or the termination, revocation or suspension of any license to practice law or the admission to practice law before any Federal court or any court of a state, territory, Puerto Rico, or the District of Columbia. A judge advocate must notify HQ USAF/JAX immediately of the return, surrender or termination of any license to practice law or the admission to practice law before any Federal court or any court of a state, territory, Puerto Rico, or the District of Columbia.

2.3. All persons subject to the UCMJ who fail to comply with the requirements of paragraph 2. are subject to prosecution under the UCMJ. Those members of the ARF who are not subject to the UCMJ and who fail to comply with the requirements of paragraph 2. may be subject to appropriate administrative action and/or civilian criminal prosecution.

3. Certifying Judge Advocates. Only TJAG can certify a judge advocate as competent to perform the duties of trial and defense counsel according to Title 10, United States Code, Section 827(b).

3.1. Judge advocates can be certified to perform the duties of trial and defense counsel upon completion of the Judge Advocate Staff Officer Course (JASOC) or upon the supervisory staff judge advocate's recommendation.

3.1.1. To be certified upon completion of JASOC, a judge advocate needs the following qualifications:

- Must graduate from JASOC
- Must demonstrate competence to perform the duties of trial and defense counsel (successfully complete both advocacy exercises and pass the military justice examination).
- Must be recommended for certification by the Commandant, Air Force Judge Advocate General School.

3.1.2. To be certified upon recommendation of the supervisory staff judge advocate (SJA), a judge advocate needs the following qualifications:

- Must graduate from JASOC
- Must demonstrate competence to perform the duties of trial and defense counsel.
- Must be recommended by the SJA.

3.2. When the Commandant or the SJA believes a judge advocate satisfies the conditions listed above, he or she will forward a written recommendation for certification to TJAG through HQ USAF/JAX. Supervisory SJAs at other than general court-martial jurisdictions (GCM) will forward the request through the GCM SJA (or senior ANG judge advocate) with an information copy to the

respective major command (MAJCOM). The recommendation should include information that the judge advocate has met the requirements of paragraphs 3.1.1. or 3.1.2.

3.3. TJAG can certify a designated ARF judge advocate for a specific period, or until he or she completes the project for which he or she needs the certification. An ARF judge advocate will normally need certification only to perform as trial counsel in a general court-martial, or as defense counsel.

3.4. TJAG can certify ARF judge advocates assigned as circuit trial or circuit defense counsel annually.

3.5. You must submit written requests for certification of other reservists to HQ USAF/JAX at least 10 days before the desired certification date. The requesting SJA must comply with the terms listed in paragraphs 3.1.2. and 3.3.

4. Withdrawing Designation or Certification:

4.1. Designation and certification will be automatically withdrawn from a judge advocate under the following circumstances:

- Retirement.
- Separation.
- Transfer out of TJAGD or TJAGDR.

4.2. An officer's judge advocate designation or certification can be withdrawn for cause under any of the following circumstances, or for other good cause:

- The officer fails to maintain professional standards.
- The officer fails to maintain ethical standards.
- The officer violates the Uniform Code of Military Justice.
- The officer violates state or Federal criminal statutes.

4.3. Forward withdrawal recommendations through judge advocate channels to TJAG. SJAs at each intermediate level can add any information and documents they believe will assist TJAG in deciding the matter.

4.4. After notice of the reasons for the withdrawal and an opportunity to respond to the notification, if circumstances warrant, TJAG may withdraw the designation or certification.

4.5. TJAG makes the final decision on withdrawal of designation or certification for cause.

4.6. If circumstances warrant such action, TJAG can suspend certification or designation immediately, pending a final decision.

NOLAN SKLUTE, Major General, USAF
The Judge Advocate General